INTERNATIONAL FINANCIAL SANCTIONS AGAINST SOUTH AFRICA: CANADIAN POSITIONS AND RECOMMENDATIONS FOR ACTION

Prepared for

the Inter Agency Anti Apartheid Conference

Ottawa, May 4 - 6, 1990

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TASKFORCE ON THE CHURCHES AND CORPORATE RESPONSIBILITY

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...as long as apartheid continues in our country, our economy will be ruined. This situation remains essentially unaltered. We call on all South Africans and the international community not to relax the pressure... If we fail to do so we will have tragically missed a historical opportunity to end the suffering and conflict in our country.

(COSATU, responding to the February 2, 1990 address of President de Klerk.)

I. Canadian Bank Campaign 1973 - 1985

A. The Frankfurt Documents

International banks including those in Canada have had a long and profitable relationship with South Africa. However, the actual extent of the network of international bank syndicates with substantial long-term loans to the South African government and its state agencies only came to light in 1973/74.

In that year an employee of the Frankfurt branch of the European-American Banking Corporation, outraged at the bank's support of South Africa, sent a wad of print-outs of syndicated loans to the Interfaith Center on Corporate Responsibility in New York. The ICCR compiled and published this information - which became known as The Frankfurt Documents - for the use of anti-apartheid organizations in the banks' home countries.

The Frankfurt Documents revealed that virtually all Canadian banks, and certainly the "big five" banks and their off-shore subsidiaries, were making major loans to the South African government. The excuses offered by the banks, that they were having a "liberalizing influence" in South Africa, became totally implausible when, in 1976, the South African government responded to the Soweto student uprisings with unparalleled brutally. Financially propping up the architects of this system had become indefensible.

Over the next decade the Canadian churches, largely through the Taskforce on the Churches and Corporate Responsibility, as well as NGOs and anti-apartheid organizations from coast to coast carried out a widespread campaign to halt these loans. Gradually the issue was also taken up by Canadian organizations and individuals which had not been known for their sensitivity to apartheid. They represented investing and fund-raising individuals and institutions anxious to avoid "tainted" money, and bank clients - both individual and

institutional - who were switching their accounts to financial institutions not involved in the apartheid loans.

Starting in 1978 with a statement of the Royal Bank of Canada that it had not made new loans to South Africa since 1976 and would henceforth refrain from loans which support apartheid, Canadian banks steadily decreased their South African exposure. This fact only became evident later, for the banks were very reluctant to make a public commitment not to make new loans to South Africa.

For example, the Toronto Dominion Bank participated in its last major loan in 1979 to ESCOM, the South African electricity company. Responding to protests, the bank said that it would no longer lend under prevailing conditions. Others had refused to publicly adopt a "no further loans policy" but had quietly given up new lending. The effect of the intensive bank campaign in Canada and the worsening repression in South Africa itself had rendered South Africa "a bad risk" for the banks.

In September 1985, the Secretary of State for External Affairs requested (and the Canadian banks readily agreed to) a ban on new loans to the South African government and its agencies. Statements issued by the banks at the time showed that such loans had been discontinued by all banks between 1976 and 1980, thus making Mr. Clark's task an easy one.

B. IMF Loans

i) 1982 Credits:

In November 1982 the IMF granted South Africa stand-by credits for a total of $1.07 billion (US), its largest ever loan, despite spirited international (including Canadian) objections from the churches, progressive political parties and NGOs opposed to apartheid. The IMF approved the loan despite the fact that IMF executive directors, representing 68 out of the 140+ members of the IMF objected to it on the basis that it did not comply with IMF requirements.

The then Canadian Minister of Finance and the Secretary of State for External Affairs supported South Africa's application over the strenuous objections of Ireland and Jamaica, two of the states which Canada's executive director represents. The Canadian government's support at the time was based on the argument that it would be wrong for the IMF to meddle in the internal affairs of a sovereign state and that South Africa had met normal IMF criteria.

In February 1983, long after the credits were approved, an IMF staff team went to South Africa for consultation and review. Its subsequent report, issued in May 1983 supported

the technical arguments advanced by the dissenting executive directors of the IMF. The report identified serious imbalances in the South African economy which it judged to be caused by the geographic immobility of black workers and the system of migrant labour which created labour market distortions. In addition the report noted that impediments to growth were also due to the unequal and underfinanced system of black education and the large discrepancies between race groups in access to technical and vocational training. In other words, IMF staff found that the system of apartheid was harmful to the economy.

Avoidable economic inefficiencies that are due to legislated interferences in the operations of the market economy are usually cited as grounds for withholding IMF credits. Had Canada in 1982 applied these technical criteria to the South African credit application, it would have been obliged - as it should have been - to join the opposing votes in the IMF.

ii) Renewed IMF Contact:

In June 1986 an IMF technical team went again to South Africa to report on the state of its economy. This gave rise to speculation about a renewed South African application. Mindful of the previous report on black labour, the South African government effectively blocked the IMF team from meeting with black trade union leaders. In Canada, an ominous warning was sounded in 1986 when the present Minister of Finance echoed almost word for word his Liberal predecessor's view on IMF credits to South Africa. Responding on June 16 to a letter from the Taskforce on the Churches and Corporate Responsibility, Mr. Wilson said that Canada has not advocated formal sanctions by the IMF and would not do so because of the IMF's functional and technical mandate. Canada would support credits to South Africa as long as these complied with the normally applied criteria of the IMF.

Speculations about a renewed South African application for a $250 million credit from the IMF surfaced again in February 1990 following Mandela's release from prison. Although these speculations are being discounted, they should not be dismissed as impossible propositions given an international climate of good will towards the de Klerk government.

If South Africa applies for IMF funding <u>before</u> apartheid is dismantled, Canadians must be vigilant. They cannot count on Michael Wilson's opposition to such untimely generosity.

II. Canadian Bank Campaign 1985 - 1989

A. Market-led Sanctions and South Africa's Default

As we have seen, beginning in the mid-seventies international banks became cautious about long-term loan commitments to South Africa and, in the early 1980s, had provided mainly short-term (one year and less) loans which could be renewed or called in depending on the South African situation. When during 1984-85 black uprisings and brutal state repression could be seen every day on the TV news around the world, and when important multinationals began to withdraw, even short-term loans were dramatically curtailed and important major lenders, such as Barclays (UK) pulled out of South Africa altogether.

In the summer of 1985, the Chase Manhattan decided not to renew a number of its short-term loans. This single decision triggered a stampede of international banks as they followed the example of the Chase and called in their loans. On September 1, 1985 South Africa defaulted on $13.6 billion (US) owed to international banks, most of it due for repayment within the following year. In the rescheduling of South Africa's debt which followed this default, this sum came to be identified as being "inside the net".

South African promised to repay other debts (those termed as being "outside the net") on a normal basis. The latter amounted to an additional $10 billion (US) in mainly long-term loans and included repayments due to the IMF, long term bond issues for South Africa's state agencies, bank loans guaranteed by foreign governments and an accumulation of export credits estimated to be about $2 billion (US). Roughly half of the "outside the net" debt was due to be repaid between 1989 and 1991.

Highly alarmed at the prospect of major losses on loans to South Africa, the international creditor banks formed a Technical Committee representing those of their number with the largest South African exposures. Their chairman was Fritz Leutweiler, a retired Swiss banker. The banks represented included the three largest German and Swiss banks, three US banks, two French and three British banks. No Canadian bank was (or is) on the Technical Committee because the level of their outstanding loans was too low to qualify for a seat.

(See Appendix A: Banks on Technical Committee)

B. Rescheduling Procedures

First Rescheduling:

The Technical Committee demanded political change. They correctly identified lack of business confidence to be due to the continued imposition of apartheid in the face of vigorous black opposition. Tragically, they were too quickly satisfied with vague reforms promised by the Botha government, and in February 1986, rescheduled (renewed) the loans for 15 months until June 1987 on terms which were manageable for the South Africans.

Second Rescheduling:

In June 1987 the loans were again renewed, this time until June 30, 1990 with financial terms so soft that they were the envy of many Third World debtor countries. (These terms included an additional 1% interest and repayment of 13% of the money due, accommodating as well South Africa's debt obligations "outside the net.") Importantly for the South African government, no political demands were made during the negotiations.

Third Rescheduling:

In 1990-91 South Africa was to repay a large portion of loans "outside the net" and was also, as described above, to reschedule loans "inside the net" on June 30, 1990. From the beginning of 1989 on, domestic and international opponents of apartheid saw this bunching-up of loan obligations as a good opportunity to press the South African government to initiate constitutional changes which would dismantle apartheid. The African National Congress and the Mass Democratic Movement were joined by the South African Council of Churches in their opposition to rescheduling of the loans "inside the net". South Africa's church leaders wrote to the banks stating that to reschedule at this time would amount to collaboration in the funding of apartheid, and the World Council of Churches mobilized their members to campaign vigorously on this issue. The Commonwealth Committee of Foreign Ministers on South Africa sent representatives to call on the banks on the "Technical Committee" to ask them to refrain from rescheduling at this time.

The banks were therefore in no doubt about the importance of their pending decision. Nevertheless, in a surprise move, on October 18, 1989, the day before the Commonwealth Heads of State meeting in Kuala Lumpur, which was to discuss further financial sanctions as well as other anti apartheid measures, Chris Stals, the Governor of the Reserve Bank of South Africa announced the successful conclusion of a rescheduling agreement with the banks.

Indifferent to all appeals, the banks had agreed to the most favourable rescheduling terms ever. The agreement provided for the repayment of only 20.5% over 3 1/2 years of $8 billion (US) loans "inside the net". The amount due during that period is less than half of what experts had estimated South Africa could pay. It is clear that the banks also aided South Africa regarding its "outside the net" debts since their concessions on the "inside the net" loans aided Pretoria to meet these large additional obligations. The banks had demanded no significant political concessions.

The agreement also permitted the conversion of debt "inside the net" to a ten year loan, for which most of the principal need only be repaid after seven years. $3.5 billion (US) of short term loans have been converted in this way into so-called "exit loans".

In December 1989, responding to questions about their participation in the exit loan option, the big five Canadian banks said that they were not interested in this option.

New bonds to cover maturing bonds:

South Africa is now asking bondholders to take new bonds instead of payment for maturing bonds of state-owned enterprises. According to the Financial Times (March 20, 1990) the South African Electricity Supply Commission has been able to issue a new bond in Germany for DM100 million effectively replacing a Commerzbank DM150 million issue of 1983 which matured in April 1990. The Commerzbank is the paying agent for the new bonds which will mature in 3 years.

According to the Financial Times, such bond refinancing has previously occurred in the Swiss market, but has now made its appearance in Germany. Obviously, these novel bond transactions are another way of helping the apartheid government in its financial crunch.

Canadian anti-apartheid organizations should keep a close watch on possible participation by Canadian financial institutions in such deals.

C. Canadian Government and Commonwealth Sanctions

1985 Measures:

In 1985 the Canadian government imposed a variety of sanctions against the apartheid government. In July and September of that year, financial sanctions were imposed in a number of ways. First, the government announced the termination of the Program for Export Development for South African markets. Second, the Export Development Corporation withdrew insurance

cover from Canadian exports to South Africa. Third, the government requested and received from Canadian banks a commitment to a voluntary ban on new loans to the South African government and its agencies. Finally, the government announced a voluntary ban on the sale in Canada of the Krugerrand, the South African gold coin.

1986 Measures:

At the Commonwealth Review meeting in London in August 1986, Canada agreed with other member states (excepting the UK) to extend the voluntary ban on new South African bank loans to the private as well as the public sector.

Canada became a prominent member in the Commonwealth deliberations from 1987 on, when the Okanagan Program of Action established the Commonwealth Committee of Foreign Ministers (CFM) chaired by Canada's Secretary of State for External Affairs. The CFM meets about twice a year to review and improve the effectiveness of established sanctions and to adopt other measures conducive to the dismantling of apartheid.

Lending to South African Companies Abroad:

In 1988 at the third CFM meeting in Harare, information became public which put into question the effectiveness of Canada's financial sanctions. The Bank of Nova Scotia (BNS) had agreed to participate in financing a take-over bid by Minorco, a Luxembourg registered company, owned by Anglo American Corporation of South Africa, to acquire Consolidated Goldfields, a British-registered mining company. External Affairs had advised the BNS that its financing of Minorco did not violate Canadian sanctions. Given the South African ownership of Minorco, however, the Canadian loan was quickly identified by international financial commentators and by anti-apartheid organizations as constituting a new loan to the South African private sector. The take-over bid eventually failed, but the case is not a rare or a trivial one. South African-controlled companies registered abroad can and do act in apartheid's interest, notably as channels to evade sanctions.

In August 1989, during the fourth CFM meeting in Canberra, a detailed proposal was adopted which dealt with such eventualities. The proposal asked that financial institutions considering loan requests from any entity outside South Africa, which was possibly controlled by South African interests, should ask for a declaration from the borrower stating the source of control of the entity seeking the loan. If South African control is established, the potential lender must seek assurances that the loan would not help circumvent sanctions; would not be transferred to South Africa; that profits would not be remitted to that country; and that, when

all circumstances are taken into account, the loan would not be of significant net benefit to economic interests in South Africa or its economy as a whole.

In a letter to the Taskforce on the Churches and Corporate Responsibility (December 11, 1989) Joe Clark wrote:

> *At the CFM IV meeting [Canberra] we agreed upon guidelines to banks to be used in lending to an entity outside South Africa which may have South African connections. These were adopted in order that banks can be fully satisfied that the funds are not being obtained to circumvent sanctions. ... These guidelines have been brought to the attention of the banks operating in Canada....At Kuala Lumpur [Commonwealth Heads of Government Meeting, Oct. 1989] we agreed to widen the application of financial sanctions, and concluded that a monitoring agency should be established to increase awareness of South Africa's financial links.*

1989 Capping of Trade Credits to South Africa:

The 1985 voluntary ban on new loans to South Africa had excluded trade credits to South African buyers and suppliers. Increasingly international trade credits have come to be used by South Africa to cushion the government's balance of payment difficulties.

The significance of trade credits as a method of circumventing the effects of financial sanctions was recognized by the Commonwealth Foreign Ministers. In September 1988 the Canadian government announced that in support of recommendations of the Commonwealth, it was asking Canadian banks to cap short-term trade credits at current levels. This was strengthened at the 1989 Kuala Lumpur Commonwealth Heads of Government Meeting limiting such credits to 90 days. The Canadian government has asked Canadian banks for their cooperation.

Position of Canadian Banks on Trade Credits:

In December 1989, the Taskforce on the Churches and Corporate Responsibility published the result of its bank survey in a small pamphlet ("Canadian Banks and South Africa: December 1989"). Each bank was asked to state its policy on trade credits to South Africa: the Bank of Nova Scotia and the Royal Bank said that they are not involved in trade credits to South Africa; the Bank of Montreal said that it will not increase the level of its trade credits to South Africa; the Canadian Imperial Bank of Commerce said that it had drastically reduced such credits and would not increase them; the Toronto Dominion Bank stated that it will not provide any new credit facilities.

It is important that banks be urged to continue to decrease the level of their South African trade credits. NGOs can play an important role in keeping the pressure on Canada's banks to let them know that they are being monitored.

D. Policy of the Province of Ontario

Exclusion of Swiss Banks from Syndicate for Ontario Hydro Bonds:

In February 1989 the Ontario government went to a Eurobond syndicate to raise financing for Ontario Hydro. The government excluded Swiss banks from its choice of syndicate participants because of their continued lending to South Africa's state agencies. This decision provoked much public comment and some raised eyebrows in the business community.

The Taskforce on the Churches and Corporate Responsibility commended the Ontario government for adhering to its policy of opposing apartheid. This policy announced by the provincial government in 1985 included a number of different sanctions against South Africa. The Taskforce also wrote to every other provincial government urging them to adopt a similar stand. From their replies it is evident that the Province of Ontario is the only jurisdiction in Canada which has opted for this policy. (There are of course a number of states and municipalities in the USA which have such policies and which exclude financial institutions which continue to lend to South Africa.)

Position of the Government of Canada:

The Taskforce has also proposed that the federal government adopt this policy when raising funds on the international market. It has argued that this would be reasonable given the government's stated commitment to make financial sanctions effective, given the voluntary ban on South African loans to which Canadian banks have agreed, and the fact that a number of foreign banks which have operations in Canada continue to lend to South Africa.

It seems incomprehensible, therefore, that a government which has taken a strong and unequivocal stand against apartheid and prides itself in its leadership on this issue is so reluctant to take the logical step of choosing its financial agents only from among the many financial institutions which have opted out of further loans to South Africa. Yet, so far, this is Ottawa's position. In the above mentioned letter Joe Clark states:

I continue to oppose secondary boycotts which can have extraterritorial implications. I also see little merit in such action, which can only deflect attention from the target, which is South Africa.

Clark goes on to say that he has spoken to the Swiss authorities and that he believes that such diplomatic approaches are effective in dealing with foreign banks.

The most logical next steps to intensifying international financial sanctions against South Africa would be the following:

. put pressure on individual provincial governments to follow Ontario's example

. put pressure on the federal government to follow Ontario's example

. write to Canadian companies and banks and ask them to exclude from their financing syndicates international financial institutions which continue to do business with South Africa.

III. Recommendations:

A. Renewed IMF Funding:

Write to the Minister of Finance to request that new IMF credits should only be considered after apartheid is abolished.

B. Renewal of maturing bonds for South Africa's state agencies:

Write to the Secretary of State for External Affairs to request that he ask Canadian and foreign financial institutions not to join in syndicates which provide or renew South African bonds.

C. Bank trade credits to South Africa:

It is important that banks be urged to decrease the level of their South African trade credits. NGOs can play an important role. Keep the pressure on Canada's banks; let them know that they are being monitored.

D. Adoption of Ontario's Policy regarding International Bank Syndicates

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APPENDIX A

THE TECHNICAL COMMITTEE ON SOUTH AFRICA'S EXTERNAL LOANS

Listed below are the names and address of the "Technical Committee" banks that finalized the 1987 and 1989 debt agreements with South Africa.

SWITZERLAND

Union Bank of Switzerland
Barnhoffstrasse. 45
8001 ZURICH

Swiss Bank Corporation
6 Aeschenplatz
4002 BASLE

Credit Suisse

Parade Platz 8
8021 ZURICH

GERMANY

Commerzbank A.G.
32-36 Neue Mainzer Gaza
P.O. 100505
6000 Frankfurt 1

Dresdner Bank A.G.
Juergen Ponto Platz 1
6000 Frankfurt 1

Deutsche Bank A.G.
Taunusanlage 12
D-6000
Frankfurt 1

UNITED STATES

Citibank N.A.
399 Park Avenue
New York, N.Y. 10043

Manufacturers Hanover
270 Park Avenue
New York, N.Y. 10017

Morgan Guaranty
23 Wall Street
New York, N.Y. 10015

FRANCE

Banque Indo Suez
96 Boulevanrd Haussmann
75002 PARIS

Credit Lyonnais
19 Boulevard Des Italins
75002 PARIS

UNITED KINGDOM

Barclay's Bank PLC
54 Lombard Street
LONDON EC3P 3AH

National Westminster Bank PLC
41 Lothbury
LONDON EC2 2BP

Standard Chartered PLC
38 Bishopsgate
LONDON EC2N 4DE

Note: the five banks especially targetted by the African National Congress because of their special relationship to South Africa and its debt are:

Switzerland: Union Bank of Switzerland (UBS)
United Kingdom: National Westminster Bank
USA: Manufacturers Hanover
Germany: Dresdner Bank A.G.
France: Credit Lyonnais.